

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2269 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
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SAVJIBHAI DAYABHAI PANSURIA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2269 of 2001
MR VIMAL M PATEL for Petitioner No. 1
MS. MANISHA LAVKUMAR GOVT PLEADER for Respondent No. 1-2
RULE SERVED BY DS for Respondent No. 2
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CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 04/05/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1. By this petition under Article 226 of the Constitution of India, petitioner has been praying for writ of mandamus or any other appropriate writ, order or direction, quashing and setting aside the impugned order dated 29-11-2000 passed by respondent No.2 in Land Acquisition Case No. 53 of 1990.

2. The case of the petitioner is that the award under section 11-A in Land Acquisition Case No. 53 of 1990 came to be pronounced in respect of land situated at village Sakhadavadar, taluka Junagadh for Ozat-II irrigation Scheme on 14-2-1996. That, no notice under section 12 (2) of the Act was served on the petitioner and the petitioner requested for making a reference under Section 18 of the Act; that in Land Acquisition No. 53 of 1990 Deputy Collector, Land Acquisition & Rehabilitation (Irrigation) Junagadh passed order dated 29-11-2000 rejecting the request of the petitioner for making reference under section 18 of the Act for redetermination of the market value of the land acquired for the aforesaid purpose.

3. The impugned order dated 29-11-2000 has been produced at Annexure-A whereby respondent rejected the request of the petitioner for making reference under section 18 of the Act, stating that in LAQ Case No. 53 of 1990 award was pronounced on 14-2-1996 and notice under section 12 (2) of the Act was served by Talati-Cum-Mantri on 25-2-1996. That the said application for making reference was submitted on 12-4-1996, and application came to be rejected treating the same beyond limitation and the amount of compensation having been accepted without raising any objection or protest.

4. It is submitted by Mr. Vimal Patel, learned advocate for the petitioner that, notice under section 12 (2) of the Act were never served to the petitioner and acceptance of compensation amount awarded by respondent Land Acquisition Officer was under protest, and therefore, petitioner was entitled to make request for reference under section 18 of the Act.

5. Annexure-D, page-17 is the copy of the order passed in in Special Civil Application No. 4242 of 1999 by the Division bench of this Court, for claiming apportionment in the compensation awarded by Spl. Land Acquisition Officer in respect of the same land. In the said writ petition present petitioner was respondent No.5. The Division Bench in its order dated 22-3-2000 in

the aforesaid writ petition directed the Land Acquisition Officer to refer application filed by respondent No.5 under section 18 of the Act to the District Court, Junagadh, for redetermination of the market value of the acquired land.

6. In the present petition, as pointed out above, prayer is to quash the order Annexure-A dated 29-11-2000 passed in LAQ Case No. 53 of 1990 whereby the Special Land Acquisition Officer rejected request for making reference made by present petitioner, who was respondent No. 5 in Special Civil Application No. 4242 of 1999.

7. In view of the directions given by Division Bench of this Court in Special Civil Application No. 4242 of 1999 vide order dated 22-3-2000, as pointed out above, there is no need to go into other questions raised in this Special Civil Application and the impugned order Annexure-A dated 29-11-2000 required to be set aside and quashed qua the present petitioner, and respondent No.2 be directed to refer the petitioner's application dated 17-4-1996 under section 18 of the Act to the district Court, Junagadh, for redetermination of the market value, within three months from the date of receipt of this order.

8. In the result the writ petition is granted. The impugned order Annexure-A dated 29-11-2000 passed in LAQ Case No. 53 of 1990 by respondent No.2 is hereby quashed and set aside, with a direction to respondent No.2 to refer petitioner's application dated 17-4-1996 under section 18 of the Land Acquisition Act to the District Court for redetermining the market value of the said land, within three months from the date of receipt of this order. Rule made absolute. No costs.

Dt: 4-5-2002

(N.G. Nandi, J)

(J.R. Vora, J)

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